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CHARLES ELMORE CROPL
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In the Supreme Court of the United States

OCTOBER TERM, 1943.

Nos. 49 and 50.

FORD MOTOR COMPANY,
Petitioner,

vs.

GORDON FORM LATHE COMPANY,
Respondent.

RESPONDENT'S ANSWER TO THE PETITION FOR REHEARING.

F. O. Richey,
John W. Michael,
Geo. D. Spohn,
B. D. Watts,
Attorneys for Respondent.

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The Petition for Rehearing presents no question and no contention which was not fully presented, argued, considered and decided against Petitioner in this Court and in each of the tribunals below, as can be readily seen from a comparison of the indexes and outlines in the Petition for Rehearing and in the briefs filed in this Court on the main case. Petitioner makes no claim that the Petition for Rehearing presents any question or contention not heretofore presented, argued and considered. We deem it unnecessary to repeat here our answers to the Petitioner's re-statement of its former arguments. Our answers are readily to be found in our Main Brief in this Court.

The fact that this case was affirmed by this Court by a divided Court affords no reason for a rehearing. Such a contention has been answered by this Court in many opinions of this Court, including that in the case of *Brown v. Aspden's Adm'rs,* 14 Howard 311, a consideration

of which is perhaps sufficient to expound the practice of this Court in the premises.*

Respectfully submitted,

F. O. Richey,
John W. Michael,
Geo. D. Spohn,
B. D. Watts,
Attorneys for Respondent.

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* In the cited case this Court said (14 Howard 312):

"Nor is the circumstance, that a decree is affirmed by a divided court, any reason for ordering a re-argument before a full bench in any case. In a body as numerous as this, it must often happen, from various causes, that the bench is not full. And experience has shown, that it has rarely happened that every judge has been present every day throughout any one entire term. The case before us is certainly an important one, in its principles and in the amount in dispute. But there are many cases on the docket at every term of the court much more important in both respects. And if it is to be understood that cases of this description are not to be finally decided without the concurrence of a majority of the whole bench, it would be a useless consumption of time to hear them in the absence of any one judge, because it would be uncertain whether a judgment could follow after the argument. And it is easy to foresee the inconvenience, delay and expenses to which a practice of that kind would subject the parties, and the uncertainty and confusion it would produce (to the great injury of other suitors) in the order of business as it stands on the docket of the court.

"Neither is there any difference between a decree in chancery and a judgment at law, as to its affirmance on a division of the court. In both cases, the motion is to reverse; and if that fails, the judgment or decree necessarily stands, and must therefore be affirmed. And in most of the cases affirmed in this manner, a majority, in fact, of the judges, who act judicially upon the case, concur in the judgment. For the Circuit Court is composed of two members, and if both are on the bench, they must concur in the judgment or decree; otherwise it could not be passed, and the point would be certified by a divided court."